

# **REQUEST FOR PROPOSALS (RFP)**

## **Minnesota Department of Commerce**

### **Health Benefit Exchange Technical Infrastructure Prototypes**

#### **Project Overview**

##### **Background**

Under the Federal Patient Protection and Affordable Care Act (ACA) enacted in March of 2010 (Public Law 111-148 and 111-152), new mechanisms for comparing and obtaining health care coverage are created called Health Benefit Exchanges (“Exchange”). Exchanges must be operational in each State by January 1, 2014. By January 1, 2013, a State must have taken the necessary steps to have an Exchange operational by January 1, 2014 or the U.S. Department of Health and Human Services (HHS) will establish one on a State’s behalf. An Exchange is an organized competitive marketplace to facilitate the comparison, choice, and purchase of health care coverage for individuals and employees of small businesses. Through an Exchange, individuals and employees will have access to comparable information on costs, benefits, health care providers, quality, and customer satisfaction for an array of coverage options, and they can use this information to choose and enroll in the health benefit plan that best fits their personal and family needs. Exchanges will also assist eligible individuals and small businesses to receive premium tax credits and cost-sharing reductions or help individuals enroll in Federal or State health care programs. By engaging consumers in a one-stop shopping experience with transparent information, Exchanges will make purchasing health insurance easier and more understandable, put more control and choice in the hands of individuals and employees of small businesses, and incent greater market competition.

The Exchange will carry out a number of functions that include:

- Ensuring that health insurers and health benefit plans meet certain standards for Exchange participation;
- Providing comparative information on costs, benefits, health care providers, quality, and customer satisfaction using a standard format;
- Determining individual, employer, and employee eligibility for Exchange participation, exemptions from individual coverage responsibilities, premium tax credits and cost-sharing reductions, Federal and State health care programs, and potentially other social service programs;
- Facilitating “real-time” eligibility determination and enrollment using a uniform format;
- Sharing information with Federal and State agencies regarding eligibility, administration of tax credits and cost-sharing reductions, exemptions from individual coverage responsibilities, etc.;
- Communicating with employers regarding employee eligibility, coverage choices and defined contribution, coverage initiation and cancelation, potential employer coverage requirement liability, etc.;
- Establishing a call center and website; and
- Operating a “Navigator” program to provide outreach, education, and assistance to individuals and employers. Navigators may be brokers/agents, community-based organizations, or other types of individuals/organizations capable of meeting yet to be determined requirements to be certified as a Navigator.

##### **Project Proposals**

Minnesota is planning for the technical infrastructure of an Exchange. This Request for Proposals (RFP) calls for a two-staged proof of concept approach to evaluate and potentially implement solutions proposed by respondents. During stage one, respondents will propose prototypes and cost and timeline estimates for implementation of a fully functioning Exchange and/or specific component modules. Based upon evaluation criteria (e.g., extent to which proposal satisfies objectives, industry experience, innovation, flexibility, interoperability, cost, and timing), successful respondents will be awarded stipends for preparing prototypes and detailed cost, work plan, and timeline proposals. Each stipend will have an award of \$10,000 per module. Up to three respondents will be awarded a stipend for each module. A respondent can be awarded stipends for multiple modules for a maximum of \$80,000 for all modules or a fully functioning Exchange.

Stage two will include an evaluation of the prototypes and the detailed cost, work plan, and timeline proposals for possible Exchange implementation. Only respondents selected to receive a stipend for a prototype in stage one are eligible to participate in stage two. Exchange implementation may include work done by other States, utilization and/or expansion of activities or tools used by Minnesota State agencies, and/or work based upon a submitted prototype from this request. Federal guidance is promoting that innovations be developed and shared between Exchanges throughout the country. As such, Exchange implementation is conceptualized as a host of innovations shared among States and from partnered vendors. Future contract awards for respondents evaluated under stage two for possible inclusion in Exchange implementation are contingent on receipt of Federal funding.

### **Respondent Eligibility**

Pursuant to section 1311 of the ACA, a health carrier or an entity that is treated under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 as a member of the same controlled group of corporations (or under common control with) as a health carrier is not eligible to carry out responsibilities or perform functions required of an Exchange. Stage one respondents must describe how they are an eligible respondent to this RFP.

Only respondents selected to receive a stipend for a prototype in stage one are eligible to participate in stage two. Stage two will include an evaluation of the prototypes for possible Exchange implementation. Exchange module implementation may include work done by other States, utilization and/or expansion of activities or tools used by Minnesota State agencies, and/or work based upon a submitted prototype from this request. Future contract awards for respondents evaluated under stage two for possible inclusion in Exchange implementation are contingent on receipt of Federal funding.

### **Project Principles and Standards** Selected respondents must adhere to the following:

- This RFP is seeking innovative, flexible, and interoperable solutions for design and development of Exchange IT components. Solutions must be flexible to adapt to changing policies and business rules, interoperable within the Exchange and with external systems, and foster the continuous inclusion of new technology that enhances performance and the consumer experience.
- The design, development, and implementation of the core module capabilities must follow standard industry Systems Development Life Cycle (SDLC) frameworks including the use of iterative and incremental development methodologies. The governing body must also be able to produce requirement specifications, analysis, design, code, and testing that can be easily shared with other interested and authorized stakeholders (i.e., other States, consortia of States, or any entity that is responsible for establishing an Exchange).
- The module design must take advantage of a Web Services Architecture (using XML, SOAP and WSDL or REST) and Service Oriented Architecture approach for design and development leveraging the concepts of a shared pool of configurable computing resources (e.g., Cloud Computing).
- The services description/definition, services interfaces, policies and business rules, must be published in a web services registry to support both internal and external service requests that are public and private, and be able to manage role-based access to underlying data.
- Pursuant to section 1561 of the Affordable Care Act, all module designs must follow the standards that are currently outlined in the recommendations published by the Office of the National Coordinator (ONC). For details on Section 1561 Standards, see: <http://healthit.hhs.gov/aca/section1561>.
- Per National Institute of Standards and Technology (NIST) publications, module design and implementation must take into account security standards and controls. For details on NIST publications, see: <http://csrc.nist.gov/publications/PubsSPs.html>. Modules must comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) security and privacy requirements, including standards soon to be promulgated, see: <http://csrc.nist.gov/publications/PubsFIPS.html>. Module design must take into account Medicaid and Child Health Insurance Program privacy protections specified under Code of Federal Regulations (CFR), Title 42, sections 431.300 to .307 and 457.1110. Modules must also comply with the Federal Information Security Management Act of 2002 (FISMA).
- Exchange IT systems must include usability features or functions that accommodate the needs of persons with disabilities and limited English proficiency. Module proposals must comply with the Minnesota IT Accessibility Standards effective September 1, 2010, which entails, in part, the Web Content Accessibility Guidelines (WCAG) 2.0 (Level AA) and Section 508 Subparts A-D which can be viewed at:

[http://www.mmd.admin.state.mn.us/pdf/accessibility\\_standard.pdf](http://www.mmd.admin.state.mn.us/pdf/accessibility_standard.pdf) .

- Exchange IT systems must interact with State Medicaid/Children's Health Insurance Program (CHIP) programs and align with the Medicaid Information Technical Architecture (MITA). Exchange IT systems also must interact with HHS and/or other Federal agencies and data sources in order to verify and acquire data as needed. It is expected that IT systems will support a high quality customer experience, as well as seamless coordination between Exchanges, Medicaid, CHIP, and other State health care programs and between the Exchanges and insurers, employers, and Navigators/brokers. See: <http://www.cms.gov/Medicaid-Information-Technology-MIT/Downloads/exchangemedicaiditguidance.pdf>
- Modules must be able to generate data in support of performance management, public transparency, policy analysis, program integrity, and program evaluation.
- All modules must allow system administrators (who may be persons with limited IT technical knowledge) to easily make changes to labels, drop-down boxes, wording on the output screens, business rules, and to any display that may be subject to frequent changes. The ability to make these changes should be conducted from within a business administration component and under secured access.
- Requirements stated in the ACA and other federal guidelines must be incorporated into any proposal. General sections of interest include sections 1301 through 2201 of the ACA. See: <http://www.healthcare.gov/law/about/The%20Full%20Law%20by%20Section/bysection.html> .

### **Related Project Functionality**

As part of a fully functioning Exchange, it is anticipated that the Exchange will have common features and functionality from each module. Responders are encouraged to propose additional features or functionality if they will substantially improve the results of the project. These items should be separated from the required items and the cost proposal. Responders are also encouraged to showcase the additional functionality into their prototypes. Examples of related functionality are listed here:

- The Exchange may be expected to save or remember a user's current point within a session. This feature would enhance the user's experience by allowing them to return to the Exchange and continue their activities without having to restart at the beginning or to re-enter information variables. This feature could be further extended to allow a user to pass the session state to an authorized assistant such as a Navigator/broker or Exchange help personnel.
- The Exchange is expected to provide analytics of usage and load to help meet performance and user expectations. This functionality will also help system administrators identify potential problems that can then be preemptory addressed.
- The Exchange must include online help functionality to assist individuals in navigating the application as well as page and field level help content. The online help should be screen, field and measurement indicator sensitive and direct individuals to documentation pertaining to the screen, field or measurement.
- The components of Exchange IT must be interoperable within the Exchange and with external systems. Proposals for solutions to promote interoperability are welcome.

### **Goal**

The ultimate goal of this project is to obtain prototypes and detailed cost, work plan, and timeline proposals for evaluation of options and costs for possible Exchange implementation. The project will consist of two stages. The first stage will identify innovative, flexible, interoperable, and efficient proposals for Exchange components or modules. Submitted proposals will be evaluated and some respondents will be selected to produce a prototype, and detailed cost, work plan, and timeline proposals for possible implementation; selected respondents will be awarded a stipend for this activity.

The second stage will evaluate prototypes and associated cost, work plan, and timeline proposals produced by respondents selected in stage one for possible Exchange implementation. Exchange implementation may include work done by other States, utilization and/or expansion of activities or tools used by Minnesota State agencies, and/or work based upon a submitted prototype produced by respondents selected in stage one of this request. Future contract awards for respondents evaluated under stage two for possible inclusion in Exchange implementation are contingent on receipt of Federal funding.

## Tasks

All respondents selected in stage one must produce a prototype and detailed cost, work plan, and timeline implementation estimates for stage two for each module they received a stipend to produce. All designs must take advantage of a Web Services Architecture (using XML, SOAP and WSDL or REST) and Service Oriented Architecture approach for design and development leveraging the concepts of a shared pool of configurable computing resources. The proposals also need to assume that modules will need to be able to link to and/or locate and retrieve information from other Exchange modules.

Respondents have the option to propose a fully functioning Exchange and/or specific component modules of a fully functioning Exchange. A fully functioning Exchange prototype would incorporate all of the listed module components and any additional functionality for an Exchange. If a respondent proposes a fully functioning Exchange or a solution comprising multiple module components, the respondent must identify whether the solution can be modular and how solution components match with those specified in this RFP. There is a preference for solutions that are modular in nature. Respondents are encouraged to match their responses with the module component structure specified in this request when submitting proposals for stage one. Listed below are eight components or modules of an Exchange and descriptions of desired functionality.

### **1. Individual Eligibility and Exemption**

This module encompasses all Exchange functions to determine and process eligibility. Individuals are eligible to participate in the Exchange if they meet certain criteria. The Exchange needs to evaluate the criteria before allowing a participant to obtain coverage. Certain individuals are also eligible for Medicaid, CHIP, potentially a Basic Health Plan or other State health care program, or premium tax credits and cost-sharing reductions through the Exchange if they elect to have additional criteria evaluated for eligibility for this financial assistance. However, an individual may shop for health benefit plans or health care providers through the Exchange without determining eligibility. Individuals who have their eligibility determined should be provided with information and choices from the health benefit plan and Navigator/broker certification and display, provider display, and enrollment modules that reflects their eligibility determination. The eligibility module must also interface with the fund aggregation/payment and account administration modules.

It is anticipated that information to determine eligibility will be provided by individuals and located, matched, and verified through other data sources and that Federal information will be available through one source (Federal data services hub) for verification purposes. The expectation is that eligibility for most people is determined in a simple, consumer friendly, “real time” manner and that the same customer experience is provided to all individuals seeking coverage, regardless of the source or amount of financial assistance for which they may qualify. However, some individuals (e.g., individuals eligible for Medicaid because of disabilities) may require a more detailed eligibility process that begins with this module, but may be concluded outside of this module; this module must facilitate referrals and transfers of information for these individuals who require a more detailed eligibility analysis. Design of the module must be flexible to allow for the future possibility of eligibility determination for other public programs including, but not limited to food support, cash assistance, child care assistance, and child support. Although this module is not required to determine eligibility for these other public programs, to the extent that these programs have common eligibility and verification requirements, this module must be able to share eligibility and verification information with State agencies administering these programs. Responses for this module must also encompass Exchange functions required to determine eligibility for exemption from the individual responsibility requirement. It is expected that responses for the eligibility module identify means and potential data sources for determining these and other eligibility requirements.

#### Eligibility Criteria (including, but not limited to)

- Citizenship or immigration status
- Residency/geography
- Incarceration status
- American Indian/Native American status
- Income
- Access to affordable employer-based coverage

- Age
- Smoking status
- Family/household composition
- Pregnancy
- Parental status
- Disability or blindness
- Emergency medical condition

Eligibility Functions (including, but not limited to)

- Accept information regarding eligibility and exemptions from individuals and associated family/household
- Locate, match, and verify eligibility and exemption information for individuals and family/household from other data sources in accordance with privacy and security standards
- Verify relevant information with Federal data source and individual/family/household
- Determine eligibility for Exchange participation
- Determine eligibility for Medicaid, CHIP, other State health care programs, and tax credits and cost-sharing reductions
- Determine eligibility for specific health benefit plans
- Determine eligibility for exemption from individual responsibility requirement
- Allow Navigators/brokers to act on behalf of individuals/family/household
- Communicate eligibility and exemption information to individual/family/household and Navigator/broker if appropriate
- Facilitate referrals and transfers of information to the Medicaid agency for individuals who require more detailed eligibility analysis
- Allow for the possible future determination of eligibility and/or transfer of eligibility information to other systems for public programs including, but not limited to food support, cash assistance, child care assistance, and child support
- Accept and process information for eligibility and exemption changes (e.g. new employment, change in income, change in family composition, etc.) during the coverage year
- Allow for renewal of eligibility and exemption in next coverage year
- Accept and process appeals of eligibility and exemption determinations
- Interface with other modules as appropriate

## **2. Individual Enrollment**

This module encompasses all Exchange functions to facilitate health benefit plan enrollment and as applicable, selection of specific health care providers (e.g., primary care clinic, health care homes, or specific network tiers). After establishing eligibility and comparing available health benefit plans and health care providers, an individual may select and enroll in a health benefit plan and as applicable, select specific health care providers. The individual enrollment module must interface with the individual eligibility, health benefit plan and Navigator/broker certification and display, provider display, fund aggregation/payment, and account administration modules. This module must also interface with the small employer eligibility and enrollment module for employers that choose to provide a defined contribution to their employees for the purchase of individual coverage. It is expected that responses for the enrollment module identify means for communicating health plan enrollment and provider selection information with insurers and/or the Medicaid/CHIP agency. Responses for this module should also encompass Exchange functions required to communicate with large employers regarding enrollment and disenrollment in health benefit plans by employees receiving premium tax credits.

Enrollment Functions (including, but not limited to)

- Assess current health benefit plan and specific health care provider (if applicable) enrollment status
- Allow enrollment and changes in enrollment only during open enrollment and special enrollment periods (e.g. changes in eligibility due to new employment, change in income, change in family composition, etc.)
- Allow Medicaid enrollees to change enrollment in Medicaid health benefit plans outside of open and special enrollment periods
- Only allow enrollment in a health benefit plan for which an individual is eligible
- Notify insurer and/or Medicaid/CHIP agency of the selected enrollment in a health benefit plan and the selection of specific health care providers as applicable

- Process insurer and/or Medicaid/CHIP agency responses and verifications to enrollment transactions and notifications, including verification that individual is enrolled and that enrollment packages and identification cards have been provided to individual
- Process individual renewals, disenrollment, and terminations
- Notify insurer and/or Medicaid/CHIP agency of individual changes in enrollment including renewal, disenrollment, and termination
- Notify insurer and/or Medicaid/CHIP agency of individual changes in information including contact information, eligibility determination, and levels of premium tax credits and cost-sharing reductions
- Receive notifications from insurers and/or Medicaid/CHIP agency regarding disenrollment, termination, and other changes in enrollment provided by individual to insurer and/or Medicaid/CHIP agency
- Communicate enrollment, disenrollment, and termination information with individual/family/household and Navigator/broker if appropriate
- Notify Federal government of confirmed enrollment, disenrollment, and termination to facilitate appropriate payment of any tax credits and cost-sharing reductions
- Communicate enrollment and disenrollment in health benefit plans by employees receiving premium tax credits to employers for calculation of potential employer responsibility payments
- Send and receive HIPAA-compliant 834 transactions and acknowledgements related to enrollment and disenrollment information.
- Interface with other modules as appropriate

### **3. Small Employer Eligibility and Enrollment**

This module encompasses all Exchange functions to determine and process small employer and associated employee eligibility and enrollment. Small employers are eligible to participate in the Exchange if they meet certain criteria. The Exchange needs to evaluate the criteria before allowing a small employer to purchase group health benefit plan coverage for their employees or establish a defined financial contribution for employees to purchase individual health benefit plan coverage. Certain small employers are also eligible for premium tax credits through the Exchange if they elect to have additional criteria evaluated for eligibility for this financial assistance. However, a small employer may shop for health benefit plans and health care providers through the Exchange without determining eligibility. Small employers that have their eligibility determined should be provided with information to decide whether to purchase a group health benefit plan or establish a defined contribution.

This module must have a mechanism for documenting eligible employees, employer contributions, and defined contribution amounts or health benefit plan choices available to employees. If a small employer decides to purchase a group health benefit plan, this module must facilitate employee enrollment and as applicable employee comparison and selection from among multiple group health benefit plans chosen by the employer and specific health care providers. This module must interface with the health benefit plan and Navigator/broker certification and display, provider display, fund aggregation/payment, and account administration modules. For small employers that choose defined contribution, this module must interface with these modules and the individual enrollment module in ways that communicate defined contribution information to employees and facilitate employee choice of individual coverage. It is expected that responses to this module also identify means to determine employer eligibility and communicate employer health plan selection, employee enrollment and provider selection information with insurers.

#### Eligibility Criteria (including, but not limited to)

- Geography/location
- Employer size
- Average employee wage
- Contribution level

#### Eligibility Functions (including, but not limited to)

- Accept, update, and verify information regarding employer eligibility
- Locate, match, and verify eligibility information from other data sources
- Determine eligibility for employer Exchange participation
- Determine employer eligibility for premium tax credits
- Collect, update, and verify employee eligibility information from employer and/or employees
- Facilitate employer choice of group health benefit plan or defined contribution

- Allow Navigators/brokers to act on behalf of employers and/or employees
- Communicate eligibility information to employers, employees, and Navigators/brokers as appropriate
- Allow for renewal of employer and employee eligibility in next coverage year
- Accept and process appeals of employer and employee eligibility
- Interface with other modules as appropriate

#### Enrollment Functions (including, but not limited to)

- If employer chooses group health benefit plan option, determine employer contribution, facilitate employer choice of group health benefit plan and provide health benefit plan and health care provider (as applicable) enrollment options to employees
- If employer chooses defined contribution, facilitate establishment of defined contribution levels towards a benchmark individual health benefit plan, communicate contribution information to employees, and connect employees to individual enrollment module
- Notify insurer of employer selection and employee enrollment in a group health benefit plan and selection of specific health care providers as applicable
- Process insurer responses and verifications to group health benefit plan enrollment transactions and notifications, including verification that employee is enrolled and that enrollment packages and identification cards have been provided to employees
- Process employer and employee renewals, disenrollment, and terminations
- Notify insurer of changes in employer and employee enrollment including renewal, disenrollment, and termination
- Receive notifications from insurers regarding disenrollment, termination, and other changes in enrollment provided to insurer
- Communicate enrollment, disenrollment, and termination information with employees, employers, and Navigators/brokers as appropriate
- Notify Federal government of confirmed enrollment, disenrollment, and termination to facilitate appropriate payment of any tax credits
- Send and receive HIPAA-compliant 834 transactions and acknowledgements related to enrollment and disenrollment information.
- Interface with other modules as appropriate

#### **4. Health Benefit Plan and Navigator/Broker Certification and Display**

This module encompasses all Exchange functions related to the certification and display of individual and group insurers/health benefit plans and Navigators/brokers. Through this module, information is submitted and/or retrieved from other data sources for insurer/health benefit plan and Navigator/broker certification to participate in the Exchange. The module must allow for review and approval mechanisms by the Exchange and/or State regulators for certification determination. Criteria for participation by insurers/health benefit plans and Navigators/brokers have not yet been determined; however, to be certified an insurer/health benefit plan must comply with requirements related to:

- Marketing
- Health care provider network adequacy
- Accreditation on local clinical quality measures, patient experience, consumer access, utilization management, quality assurance, provider credentialing, complaints and appeals, and patient information systems
- Disclosure of information on claims payment policies, claims denials, data on enrollment and disenrollment, rating practices, cost-sharing for in-network and out-of-network providers, and company financial information
- Implementation of a quality improvement strategy
- Utilization of a standard format for comparing health benefit plan options
- Utilization of a uniform enrollment form/process
- Insurer offering of at least 1 “Silver” and 1 “Gold” plan

Once an insurer/health benefit plan or Navigator/broker has been certified, this module must collect and display information for comparison by individuals, employers, and employees. The display of health benefit plan information should match the eligibility determination of the individual, employer, and employee determined in either the individual eligibility or small employer eligibility and enrollment modules. This module should also determine and

display health benefit plan and Navigator/broker information based on the preferences of individuals, employers, and employees. Information about health benefit plans should be provided in a layered display that allows for a high level comparison of composite measures and an expanded comparison of detailed information on costs, benefits, health care providers, quality, and customer satisfaction, and other potential measures. Health benefit plan and Navigator/broker information needs to be displayed in a consumer-friendly manner so that users can clearly discern and easily compare components of personal interest. Responders should detail their plans for display to help explain the user experience.

This module also needs to incorporate a calculator to allow the user the ability to estimate the cost of a health benefit plan. The expected function of the calculator is to allow individuals to view estimated costs of health benefit plans following eligibility determinations of the individual eligibility and small employer eligibility and enrollment modules for premium tax credits, cost-sharing reductions, and employer defined contributions. An intermediate calculator function should also be available that allows individuals, employers, and employees to estimate the cost of health benefit plans based on self-entered information without completing the individual eligibility or small employer eligibility and enrollment modules.

This module must interface with the individual eligibility, individual enrollment, small employer eligibility and enrollment, and account administration modules. It is also expected that this module will interact closely with the provider display module. Information on health care provider cost and quality from the provider display module should be available as consumers search for information about health care providers associated with specific health benefit plans. Individuals, employers, and employees should be able to start an enrollment process with either the health benefit plan or provider display modules or the individual eligibility/small employer eligibility and enrollment display modules. However, an individual, employer, or employee may shop for health benefit plans or health care providers through the Exchange without determining eligibility or starting an enrollment process.

## **5. Provider Display**

This module encompasses functions related to the display of health care provider information to assist individuals, employers, and employees in finding, comparing, and selecting a health care provider and health benefit plan. The module must display provider name, location, service provided (including whether the provider is a health care home, see: <http://www.health.state.mn.us/healthreform/homes/index.html> ), and other potential data elements. The module must also display information for quality measures and provider peer grouping:

Quality Measure Data: This data will consist of 14 measures for physician clinics and approximately 50 measures for hospitals. For more detail, see: <http://www.health.state.mn.us/healthreform/measurement/index.html>

Provider Peer Grouping Data: This data will consist of composite cost and quality information for physician clinics and hospitals. Individuals should be able to “drill down” into the subcomponent parts of the composites. Some information from the quality measure data listed above is included in the quality composite. Composite cost and quality information will be available for a health care provider’s total patient population, as well as for specific conditions including diabetes, pneumonia, heart failure, total knee replacement, coronary artery disease, and asthma. For more detail, see: <http://www.health.state.mn.us/healthreform/peer/index.html>

Health care provider information needs to be displayed in a consumer-friendly manner so that users can clearly discern and easily compare components of personal interest. Respondents should detail their plans for display to help explain the user experience. This module should determine and display health care provider information based on the preferences of individuals, employers, and employees. Information about health care providers should be provided in a layered display that begins with a high level comparison of composite measures and allows for an expanded comparison of detailed information on cost and quality measures. Specifically, this module should allow for:

Search Capability: The module must provide consumers the capability to search by an array of criteria, including, but not limited to freeform text, condition/diagnosis/procedure, service provided, location, provider/facility name, quality measure, cost measure, and other user-defined terms.

Search Results Capability: The search results capability must display information in consumer/user-friendly formats including explanations of how to interpret the information, readily facilitate comparisons of multiple



providers, allow refined searches and sorting of information, allow for the presentation and comparison of current and historical information, provide contact information for providers/facilities, and provide other varying levels of detail of information.

This module must interface with the individual eligibility, individual enrollment, small employer eligibility and enrollment, and account administration modules. Health care providers will need an opportunity to securely preview their information before it is publicly reported. Responders should identify potential options for secure health care provider review of information through this module or through a connection to the account administration module. It is also expected that this module will interact closely with the health benefit plan and Navigator/broker certification and display module. Information from the provider display module should be available as consumers search for information about health care providers associated with specific health benefit plans. Individuals, employers, and employees should be able to start an enrollment process with either the health benefit plan or provider display modules or the individual eligibility/small employer eligibility and enrollment display modules. However, an individual, employer, or employee may shop for health benefit plans or health care providers through the Exchange without determining eligibility or starting an enrollment process. This module must be a component that is fully integrated into the Exchange. A module that takes a user away from the Exchange to an external, non-Exchange website will not be considered.

Upon selection of a responder's prototype for possible implementation in stage two, the following requirements would need to be incorporated into the work plan:

- A database structure must be developed and populated using quality measure and provider peer grouping data provided by the State.
- The contractor must provide a mechanism to populate this database independently after expiration of the contract. The database population mechanism must pull the data from the agreed upon format, without format modifications unless previously approved.
- Functionality for scalability should allow for the inclusion of additional information about providers in the future. Responders should identify other potential types of information about providers that would be of interest to consumers and/or providers and potential data sources for this information. Note: The State already has access to data needed for quality and provider peer grouping purposes.
- A reload mechanism must be developed so nontechnical staff can upload a full year of data to the application. The developed mechanism must allow the user to reload all or a specific part of this data.
- Technical design specifications must be provided along with field definitions and functionality, process flow, schema design, logical and physical data models in an ERD format and a data dictionary.
- The module maintenance interface must be made accessible for review.

## **6. Fund Aggregation and Payment**

This module encompasses all Exchange functions related to the aggregation and processing of payments from multiple sources for health benefit plan enrollment, Navigator/broker services, and funding of operations. This module must facilitate the aggregation, transfer, and reconciliation of funds and/or information about the aggregation, transfer, and reconciliation of funds. The Exchange will need to bill, accept, transfer, reconcile, and communicate payment and/or payment information by interfacing with multiple entities including individuals (multiple within a family/household), employers (multiple), employees (multiple within a family/household), third parties on behalf of individuals and employers (multiple), State agencies, the Federal data services hub, insurers, Navigators/brokers, and potentially other entities.

For payment related to health benefit plan enrollment, the module must allow for a choice of payment to the Exchange and/or the insurer. The module should allow multiple types of payment transactions through the Exchange, including but not limited to credit cards, debit cards, electronic transfers, and third party vendor transactions (e.g., PayPal). This module will need to track information about payments made outside the Exchange for health benefit plans selected through the Exchange. This module is not responsible for transferring payments from Medicaid and CHIP to insurers. This module is also not responsible for making health benefit plan termination decisions based on non-payment of premium; insurers will make this decision, but this module needs to communicate non-payment and termination information to Exchange participants. This module must interface with the individual enrollment, small employer eligibility and enrollment, and account administration modules.

## 7. Account Administration

This module creates accounts with current and historical information; links information from the other modules; tracks relationships between individuals, family/households, employers, employees, Navigators/brokers, insurers, and health care providers as appropriate; allows for calculation of aggregate module statistics for employers, Navigators/brokers, insurers, potentially health care providers, and Exchange administrators; and facilitates periodic reconciliation of module information between the Exchange and employers, Navigators/brokers, insurers, and potentially health care providers. Health care providers will need an opportunity to securely preview some components of their information before it is publicly reported. Responders should identify potential options for health care provider review of information for the provider display module through this module.

The Exchange will need to create and maintain account interfaces for individuals and employees (with appropriate connections with family/household members), employers (with appropriate connections with employees), Navigators/brokers (with appropriate connections to client accounts as authorized by individuals, employers, and employees), insurers, potentially health care providers, and Exchange administrators. The accounts must allow self-administration from an authorized user and provide for appropriate security controls. A proposal for this module should include all account interfaces listed. This module should facilitate secure communications and notifications between accounts. This module should also allow individuals/employees and employers to designate Navigators/brokers to act on their behalf and authorize access to some account information by third parties such as Navigators/brokers and health care providers. A proposal for this module should include options for saving and retrieving past module processes. Security and auditing provisions are also needed to provide a robust accountability for actions dealing with account administration as well as other areas of the Exchange. The ability to report these actions may be performed through the account administration module.

This module should allow the Exchange to meet the following principles:

Individual Access: Consumers should be provided with a simple and timely means to access and obtain their personal information in a readable format.

Correction: Consumers should be provided with a timely means to dispute the accuracy or integrity of their individually identifiable information, and to have erroneous information corrected or to have a dispute documented if their requests are denied.

Collection, Use, and Disclosure Limitation: Individually identifiable information should be collected, used, and/or disclosed only to the extent necessary to accomplish a specified purpose(s). Individuals should be provided a reasonable opportunity and capability to make informed decisions about the collection, use, and disclosure of their individually identifiable information.

Data Integrity: Persons and entities should take reasonable steps to ensure that individually identifiable information is complete, accurate, and up-to-date to the extent necessary for the person's or entity's intended purposes and has not been altered or destroyed in an unauthorized manner.

Accountability: These principles should be implemented, and adherence assured, through appropriate monitoring and other means, and methods should be in place to report and mitigate non-adherence.

## 8. Mobile Application or Accessibility

Modules should lend themselves to being mobile device ready. At a minimum, the modules stated above should be easily viewed or ported for display on mobile devices. Responses to this module should identify options for mobile device applications for some or all modules referenced above. Functionality for a mobile device application has not been established so proposals should specify immediate and future opportunities. Proposals may take advantage of reusable technology such as XML to transfer data and then parse into a specific platform or display.

## General Proposal Information

Contractors will work closely with State and/or Exchange staff. It is possible that contractors will prepare outlines or rough drafts of certain products, which will be completed by State and/or Exchange staff or other vendors.

The Review Committee may conclude that oral interviews/presentations and/or demonstrations are required for stage one and/or stage two. The presentation process will allow all eligible respondents to demonstrate their solution, explaining and/or clarifying any unusual or significant elements related to their response. Any cost incidental for the oral interviews/presentations and/or demonstrations shall be borne entirely by the respondent.

This RFP may result in the possible issuing of two contracts to a respondent. Contracts may also be awarded to multiple respondents. An initial contract may be awarded for the stipend and development of a prototype(s). A possible second contract may be awarded for the complete development and implementation of a proposal.

Contracts for stage one will begin on the date stated in the contract or upon full execution of the contract, whichever is later, and prototypes shall be completed by October 31, 2011 for modules 1-4 and 6-8. Contracts for stage one for module 5 will begin on the date stated in the contract or upon full execution of the contract, whichever is later, and prototypes shall be completed by September 2, 2011.

Contracts for stage two may begin following evaluation of prototypes in stage two and on the date stated in the contract or upon full execution of the contract, whichever is later. It is anticipated that only one contract per module may be awarded in stage two. Completion of stage two is dependent upon receipt of Federal funding.

All stage one proposals must be received not later than July 20, 2011 unless the Department of Commerce experiences an interruption to its operations past this date due to a lack of appropriations for fiscal year 2012. In that event, and without further notice from the Department, this solicitation will automatically be suspended and proposals shall not be due on that date. When operations resume, an addendum will be issued to identify the revised due date.

Respondents are encouraged to propose additional components or activities if they will substantially improve the results of the project. These items should be separated from the required items and the cost proposal.

This RFP does not obligate the State to award a contract or complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

Prospective respondents who have any questions regarding this request for proposal may contact:

April Todd-Malmlov, Health Insurance Exchange Director  
Minnesota Department of Commerce  
85 East Seventh Place, Suite 500  
St. Paul, MN 55101  
Email: [april.todd-malmlov@state.mn.us](mailto:april.todd-malmlov@state.mn.us)  
Telephone: 651-201-3561

Pete Frank, Exchange IT Project Manager  
Minnesota Department of Health  
85 East Seventh Place, Suite 220  
St. Paul, MN 55101  
Email: [peter.frank@state.mn.us](mailto:peter.frank@state.mn.us)  
Telephone: 651-201-3808

Other personnel are **NOT authorized** to discuss this RFP with responders before the proposal submission deadline. Contact regarding this RFP with any personnel not listed above could result in disqualification.

Responses to all questions received will be made available in writing to all interested parties.

A conference call related to the RFP will be held on Monday, June 27, 2011, from 1:30 PM to 3:00 PM Central Time. To participate in the conference, please call: 1-888-742-5095. To access the session, use the conference code: 20683 62082.

Written questions may be submitted in advance of the conference call. Please submit questions to Peter Frank at [peter.frank@state.mn.us](mailto:peter.frank@state.mn.us). Every effort will be made to respond on the June 27, 2011 conference call to any questions submitted by 4:00 PM Central Time on Friday, June 24, 2011 as well as additional questions that conference call participants may raise during the call.

## Proposal Content

This RFP will consist of two stages. Each stage has proposal requirements. The list of proposal requirements for each stage is listed below. Responders must submit the following information in the following order:

### **Stage One Proposal Requirements: Due by July 20, 2011**

Provide a 1 page cover letter identifying the main contact for the proposal and any subcontractors, your eligibility as a respondent to this RFP, and whether you are submitting a proposal for a fully functioning Exchange or specific module components. Provide responses to sections 1 through 4 below for each module for which you are submitting a proposal. Proposals exceeding 15 pages per module or 120 pages in total will not be considered. The cover letter, resumes, work samples, descriptions of optional functionality on page 3, and required forms in section 5 are excluded from the page limit. Proposals should be submitted with single spaced text in 11 point font with 1 inch margins.

1. Project Overview (10% of proposal evaluation): Describe your understanding of the nature of the project, activities of an Exchange, and the functional requirements of the module.
2. Project Description and Work Plan (30% of proposal evaluation):
  - Describe your understanding of the module objectives. Respondents are encouraged to demonstrate innovation and their understanding of the module by expanding on the descriptions included in Tasks 1-8. If respondents choose to include the optional functionality noted on page 3, please list this work separately. Depending on the response, it may or may not be included in the contractor's scope of work.
  - Explain how the proposed solution will meet the module objectives.
  - Include a description as to whether the proposal will be comprised of a 1) build and turn over approach, 2) license or software as a service model, 3) cloud based platform as a service model, or 4) some other approach and/or combination of approaches. Respondents are encouraged to provide a benefit analysis of the module solution based on the ability to deliver the solution in a timely manner, ability to deliver on module objectives, cost factors, and quality of service including availability, redundancy, and security.
  - Include a description of the software/hardware configuration necessary for the module solution.
  - Include an initial cost estimate, work plan, and timeline that would apply to the implementation and ongoing support of the module(s). The ongoing support maybe done by some party other than the vendor of implementation. A more detailed cost, work plan, and timeline proposal will be required in stage two of respondents selected in stage one to prepare prototypes.
  - Describe proposed project management and interaction/communication with State and/or Exchange staff for the project.
3. Company Overview, Qualifications, and Experience (30% of proposal evaluation):
  - Describe company history and growth.
  - Provide a list of personnel, including subcontractors, who will work on the module, detailing their training and work experience and the anticipated amount and/or portion of time each will devote to this project. Resumes must be submitted for key personnel, including subcontractors.
  - Describe your background and experience with similar projects; please provide at least three references and work samples. There is a preference for organizations with experience working with health insurance or health care information and presenting it in a consumer-friendly manner for users. Please include any previous experience with this type of work in your response, including examples as appropriate.
4. Capability for Innovative, Flexible, and Interoperable Design and Development (30% of proposal evaluation):
  - This RFP is seeking innovative, flexible, and interoperable solutions for design and development of Exchange IT components. Describe how your solution is flexible, interoperable, and fosters the continuous inclusion of new technological innovations that enhance performance and consumer experience.

- Describe your process or System Development Life Cycle methodology for developing web and/or mobile type applications. Describe each step of your methodology including a typical timetable and identify the positions within the organization responsible for each step.
- Describe the actions and activities you would support that may be related to the integration and launching of the module to ensure a smooth and successful implementation.
- Describe your plan for gathering and documenting application requirements. Provide specific examples of your experience in requirements gathering and documentation for other projects.
- Describe your process for building modular components for applications, websites, or mobile devices. Also describe any other work related to searches, user session tracking, intuitive and friendly user means to obtain information.
- Confirm your ability to build a module which will function in an interactive capacity and be portable to standard systems and hardware.
- Describe your understanding and plan for meeting the Principles and Standards as stated on page 2.

5. Required Forms:

- Affidavit of Non Collusion
- Certificate Regarding Lobbying
- Affirmative Action Certification
- Veteran Owned Preference Form (if applicable)

## **Stage Two Proposal Requirements: Due by October 31, 2011 (September 2, 2011 for Module 5)**

Respondents that are awarded stipends for prototypes will be required to produce the following proposal requirements/deliverables for each module for which they are selected in stage one. Only respondents selected to receive a stipend for a prototype in stage one are eligible to participate in stage two. A template for submitting proposal information for stage two will be provided to respondents selected in stage one.

### **1. Prototype (40% of proposal evaluation):**

- Provide a prototype of each module for which the respondent was selected under stage one.
- Describe how the prototype/solution achieves module objectives.
- Provide an explanation of the innovation, flexibility, interoperability, and industry experience that the prototype presents.

### **2. Detailed Cost Estimate (30% of proposal evaluation):**

- Provide a detailed cost estimate for implementation of the prototype into a working Exchange component.
- Provide technical specifications for the hardware, software, operating systems, database requirements, and server configurations that the solution requires to operate in a production environment. It is anticipated that between one and two million Minnesotans may enroll in health benefit plans through the Exchange; however, all Minnesotans or roughly five million people may generally access the Exchange to find information on health benefit plans and health care providers.
- The cost estimate must also include estimates for support and maintenance of the prototype in a working Exchange. The support estimates should be based upon the assumption that the respondent may not be the party performing the support or maintenance, but estimates for this service may be provided separately.
- The respondent should tie their cost breakout to specific milestones with the understanding that if the respondent is chosen for implementation, the contract may reference payment for these specific milestones.
- Describe whether the prototype is a 1) build and turn over approach, 2) license or software as a service model, 3) cloud based platform as a service model, or 4) some other approach and/or combination of approaches.

### **3. Detailed Work Plan and Timeline (20% of proposal evaluation):**

- Provide a detailed work plan and timeline for the implementation of the prototype in a working Exchange component. This plan should also serve as a scheduling and managing tool along with a basis for an invoice guide. This work plan should identify the level of State and/or Exchange staff participation in the contract, as well as any other service to be provided by the State, Exchange, or other party, and the details of the cost allowances for participation.
- If the prototype is selected for implementation, a complete and agreed upon test plan will need to be developed before implementation. This plan should be outlined for the prototype and should include integration, system, user acceptance, and load testing. The plan should also include that the contractor will fix any problems identified through public use for an agreed upon period. This warranty period will consist of at least a 30 day period, which is negotiable at contract signing.
- The work plan should also include a comprehensive knowledge transfer process to the State and/or Exchange staff, both technical and program, which will include the delivery of complete and accurate written documentation of the solution structure. The written documentation should include a user and technical manual.

### **4. Public Evaluation (10% of proposal evaluation):**

- Respondents selected under stage one must make prototypes available for public viewing in stage two.
- The Review Committee may conclude that oral interviews/presentations and/or demonstrations are required for the public evaluation. The presentation process will allow all respondents selected from stage one to demonstrate their solution, explaining and/or clarifying any unusual or significant elements related to their response. Any cost incidental for the oral interviews/presentations and/or demonstrations shall be borne entirely by the respondent.

## Proposal Submission

All proposals for stage one and stage two must be sent to:

April Todd-Malmlov, Health Insurance Exchange Director  
Minnesota Department of Commerce  
85 East Seventh Place, Suite 500  
St. Paul, MN 55101

Stage One: All proposals must be received not later than 4:00 PM, Central Time, Wednesday, July 20, 2011.

Stage Two: All prototypes and associated cost, work plan, and timeline proposals must be received not later than 4:00 PM, Central Time, Monday, October 31, 2011 for modules 1-4 and 6-8 and not later than 4:00 PM, Central Time, Friday, September 2, 2011 for module 5.

Provide one copy of the cost proposal for stage one and stage two in a separately sealed envelope clearly marked on the outside "Cost Proposal" along with the firm's name. For purposes of completing the cost proposal, the State does not make regular payments based upon the passage of time, it only pays for services performed or work delivered after it is accomplished. Proposals will be evaluated on "best value" as specified below. The cost proposal will not be opened by the review committee until after the qualifications points are awarded.

<b>Timeline</b>	<b>Modules</b>	
	1- 4, 6- 8	5
Stage One – Proposals due	7/20/2011	7/20/2011
Stage One – Proposal evaluation and selection for prototypes	8/5/2011	8/5/2011
Stage Two – Prototypes, cost proposal, work plan, and timeline due	10/31/2011	9/2/2011
Stage Two – Proposal evaluation and potential selection	Contingent	Contingent

**Late proposals will not be considered.** Fax and email responses will not be considered.

All costs incurred in responding to this RFP will be borne by the responder.

The total cost of stage one contracts shall not exceed \$240,000 or \$80,000 per selected respondent. Stage one will consist of a fixed priced stipend contract. The initial cost estimates submitted during stage one will not be considered for stage one contract amounts.

The cost of stage two contracts has not been specified. Future contract awards for any respondent from stage two selected for possible inclusion in Exchange implementation are contingent on receipt of Federal funding.

Proposals from single organizations equipped to carry out all actions or from a lead contractor with subcontractors are welcome. If an organization proposes to carry out actions associated with this RFP with the assistance of subcontractors, those subcontractors must be specifically identified in the proposal.

Submit 12 copies of the proposal and one set of work samples. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address written on the outside. Each copy of the proposal must be signed in ink by an authorized member of the firm.

## Proposal Evaluation

All responses received by the deadlines will be evaluated by representatives of the Minnesota Departments of Commerce, Human Services, and Health, and potentially by representatives of other State agencies, Exchange staff, and/or independent contractors working on behalf of the State and/or the Exchange. Proposal materials will become public information following possible respondent selection and contract execution after stage two evaluations.

A 100-point scale will be used to create the stage one and stage two evaluation recommendations. Each module proposal will be evaluated separately. The factors and weighting on which proposals will be judged are as follows:

### Stage One

- |  |     |
|--|-----|
| 1. Understanding of module objectives  | 10% |
| 2. Extent to which the proposed project description and work plan meet module objectives | 30% |
| 3. Qualifications and experience related to module objectives                            | 30% |
| 4. Capability for innovative, flexible, and interoperable design and development         | 30% |

It is anticipated that the stage one evaluation and selection will be completed by August 5, 2011.

### Stage Two

- |   |     |
|---|-----|
| 1. Extent to which prototype meets objectives | 40% |
| 2. Detailed cost estimate                     | 30% |
| 3. Detailed work plan and timeline            | 20% |
| 4. Public evaluation of the prototype         | 10% |

Stage two evaluation and selection is contingent upon receipt of Federal funding.



## **General Requirements**

### **Affidavit of Noncollusion**

Each responder must complete the attached Affidavit of Noncollusion and include it with the response.

### **Conflicts of Interest**

Responder must provide a list of all entities with which it has relationships that create, or appear to create, a conflict of interest with the work that is contemplated in this request for proposals. The list should indicate the name of the entity, the relationship, and a discussion of the conflict.

### **Proposal Contents**

By submission of a proposal, Responder warrants that the information provided is true, correct and reliable for purposes of evaluation for potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from the award as well as subject the responder to suspension or debarment proceedings as well as other remedies available by law.

### **Disposition of Responses**

All materials submitted in response to this RFP will become property of the State and will become public record in accordance with Minnesota Statutes, section 13.591, after the evaluation process is completed. Pursuant to the statute, completion of the evaluation process occurs when the government entity has completed negotiating the contract with the selected vendor. If the Responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minnesota Statute § 13.37, the Responder must:

- clearly mark all trade secret materials in its response at the time the response is submitted,
- include a statement with its response justifying the trade secret designation for each item, and
- defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments or damages awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a contract. In submitting a response to this RFP, the Responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State.

The State will not consider the prices submitted by the Responder to be proprietary or trade secret materials.

Notwithstanding the above, if the State contracting party is part of the judicial branch, the release of data shall be in accordance with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time.

### **Contingency Fees Prohibited**

Pursuant to Minnesota Statutes Section 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

### **Sample Contract**

You should be aware of the State's standard contract terms and conditions in preparing your response. A sample State of Minnesota Professional/Technical Services Contract is attached for your reference. Much of the language reflected in the contract is required by statute. If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP; certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.

### **Reimbursements**

Reimbursement for travel and subsistence expenses actually and necessarily incurred by the contractor as a result of the contract will be in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations. Reimbursements will not be made for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

## **Organizational Conflicts of Interest**

The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, a vendor is unable or potentially unable to render impartial assistance or advice to the State, or the vendor's objectivity in performing the contract work is or might be otherwise impaired, or the vendor has an unfair competitive advantage. The responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the Assistant Director of the Department of Administration's Materials Management Division ("MMD") which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organization conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the responder was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to MMD, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor, and the terms "contract," "contractor," and "contracting officer" modified appropriately to preserve the State's rights.

## **IT Accessibility Standards**

Responses to this solicitation must comply with the Minnesota IT Accessibility Standards effective September 1, 2010, which entails, in part, the Web Content Accessibility Guidelines (WCAG) 2.0 (Level AA) and Section 508 Subparts A-D which can be viewed at: [http://www.mmd.admin.state.mn.us/pdf/accessibility\\_standard.pdf](http://www.mmd.admin.state.mn.us/pdf/accessibility_standard.pdf)

## **Nonvisual Access Standards**

Nonvisual access standards require:

- 1) The effective interactive control and use of the technology, including the operating system, applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;
- 2) That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;
- 3) That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and
- 4) That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

## **Preference to Targeted Group and Economically Disadvantaged Business and Individuals**

In accordance with Minnesota Rules, part 1230.1810, subpart B and Minnesota Rules, part 1230.1830, certified Targeted Group Businesses and individuals submitting proposals as prime contractors will receive a six percent preference in the evaluation of their proposal, and certified Economically Disadvantaged Businesses and individuals submitting proposals as prime contractors will receive a six percent preference in the evaluation of their proposal. Eligible TG businesses must be currently certified by the Materials Management Division prior to the solicitation opening date and time. For information regarding certification, contact the Materials Management Helpline at 651.296.2600, or you may reach the Helpline by email at [mmdhelp.line@state.mn.us](mailto:mmdhelp.line@state.mn.us). For TTY/TDD communications, contact the Helpline through the Minnesota Relay Services at 1.800.627.3529.

## **Veteran-Owned Preference**

In accordance with Minnesota Statute §16C.16, subd. 6a, veteran-owned businesses with their principal place of business in Minnesota and verified as eligible by the United States Department of Veterans Affairs' Center for Veteran Enterprises (CVE Verified) will receive up to a 6 percent preference in the evaluation of its proposal.

Eligible veteran-owned small businesses include CVE verified small businesses that are majority-owned and operated by either recently separated veterans, veterans with service-connected disabilities, and any other veteran-owned small businesses (pursuant to Minnesota Statute §16C.16, subd. 6a).

Information regarding CVE verification may be found at <http://www.vetbiz.gov>.

Eligible veteran-owned small businesses should complete and **sign** the **Veteran-Owned Preference Form** in this solicitation. Only eligible, CVE verified, veteran-owned small businesses that provide the required documentation, per the form, will be given the preference.

### **Human Rights Requirements**

For all contracts estimated to be in excess of \$100,000, responders are required to complete the attached Affirmative Action Data page and return it with the response. As required by Minnesota Rule 5000.3600, "It is hereby agreed between the parties that Minnesota Statute § 363A.36 and Minnesota Rule 5000.3400 - 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minnesota Statute § 363A.36 and Minnesota Rule 5000.3400 - 5000.3600 are available upon request from the contracting agency."

### **Certification Regarding Lobbying**

Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore the Proposer must complete the attached **Certification Regarding Lobbying** and submit it as part of its proposal.

### **Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion.**

Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore the Proposer must certify the following, as required by the regulations implementing Executive Order 12549.

#### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions**

##### Instructions for Certification

- 1) By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- 2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- 3) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- 4) The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverages sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- 5) The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- 6) The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 7) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs
- 8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a

participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- 9) Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

#### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

- 1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- 2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

#### **Insurance Requirements**

- A. Contractor shall not commence work under the contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

- B. Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

- 1) **Workers' Compensation Insurance:** Except as provided below, Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance **minimum** limits are as follows:

\$100,000 – Bodily Injury by Disease per employee  
\$500,000 – Bodily Injury by Disease aggregate  
\$100,000 – Bodily Injury by Accident

If Minnesota Statute 176.041 exempts Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State of Minnesota, Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Contractor from the Minnesota Workers' Compensation requirements.

If during the course of the contract the Contractor becomes eligible for Workers' Compensation, the Contractor must comply with the Workers' Compensation Insurance requirements herein and provide the State of Minnesota with a certificate of insurance.

- 2) **Commercial General Liability Insurance:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Contractor or by a subcontractor or by anyone directly or indirectly employed by the Contractor under the contract. Insurance **minimum** limits are as follows:

\$2,000,000 – per occurrence  
\$2,000,000 – annual aggregate  
\$2,000,000 – annual aggregate – Products/Completed Operations

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage

Personal and Advertising Injury  
Blanket Contractual Liability  
Products and Completed Operations Liability  
Other; if applicable, please list \_\_\_\_\_  
State of Minnesota named as an Additional Insured

- 3) **Commercial Automobile Liability Insurance:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this contract, and in case any work is subcontracted the contractor will require the subcontractor to maintain Commercial Automobile Liability insurance. Insurance **minimum** limits are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

Owned, Hired, and Non-owned Automobile

- 4) **Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability Insurance**  
This policy will provide coverage for all claims the contractor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Contractor's professional services required under the contract.

Contractor is required to carry the following **minimum** limits:

\$2,000,000 – per claim or event

\$2,000,000 – annual aggregate

Any deductible will be the sole responsibility of the Contractor and may not exceed \$50,000 without the written approval of the State. If the Contractor desires authority from the State to have a deductible in a higher amount, the Contractor shall so request in writing, specifying the amount of the desired deductible and providing financial documentation by submitting the most current audited financial statements so that the State can ascertain the ability of the Contractor to cover the deductible from its own resources.

The retroactive or prior acts date of such coverage shall not be after the effective date of this Contract and Contractor shall maintain such insurance for a period of at least three (3) years, following completion of the work. If such insurance is discontinued, extended reporting period coverage must be obtained by Contractor to fulfill this requirement.

C. Additional Insurance Conditions:

- Contractor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of Contractor's performance under this contract;
- Contractor's policy(ies) and Certificate(s) of Insurance shall contain a provision that coverage afforded under the policy(ies) shall not be cancelled without at least thirty (30) days advanced written notice to the State of Minnesota;
- Contractor is responsible for payment of Contract related insurance premiums and deductibles;
- If Contractor is self-insured, a Certificate of Self-Insurance must be attached;
- Contractor's policy(ies) shall include legal defense fees in addition to its liability policy limits, with the exception of B.4 above;

- Contractor shall obtain insurance policy(ies) from insurance company(ies) having an “AM BEST” rating of A- (minus); Financial Size Category (FSC) VII or better, and authorized to do business in the State of Minnesota; and
  - An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor’s policy limits to satisfy the full policy limits required by the Contract.
- D. The State reserves the right to immediately terminate the contract if the contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the contractor. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State’s authorized representative upon written request.
- E. The successful responder is required to submit Certificates of Insurance acceptable to the State of Minnesota as evidence of insurance coverage requirements prior to commencing work under the contract.

**CERTIFICATION REGARDING LOBBYING**  
For State of Minnesota Contracts and Grants over \$100,000

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, A Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Organization Name

\_\_\_\_\_  
Name and Title of Official Signing for Organization

By: \_\_\_\_\_  
Signature of Official

\_\_\_\_\_  
Date

## State Of Minnesota – Affirmative Action Certification

**If your response to this solicitation is or could be in excess of \$100,000**, complete the information requested below to determine whether you are subject to the Minnesota Human Rights Act (Minnesota Statutes 363A.36) certification requirement, and to provide documentation of compliance if necessary. **It is your sole responsibility to provide this information and—if required—to apply for Human Rights certification prior to the due date and time of the bid or proposal and to obtain Human Rights certification prior to the execution of the contract. The State of Minnesota is under no obligation to delay proceeding with a contract until a company receives Human Rights certification.**

**BOX A – For companies which have employed more than 40 full-time employees within Minnesota on any single working day during the previous 12 months. All other companies proceed to BOX B.**

Your response will be rejected unless your business:

has a current Certificate of Compliance issued by the Minnesota Department of Human Rights (MDHR)

—or—

has submitted an affirmative action plan to the MDHR, which the Department received prior to the date and time the responses are due.

Check one of the following statements if you have employed more than 40 full-time employees in Minnesota on any single working day during the previous 12 months:

- ☐ We have a current Certificate of Compliance issued by the MDHR. **Proceed to BOX C. Include a copy of your certificate with your response.**
- ☐ We do not have a current Certificate of Compliance. However, we submitted an Affirmative Action Plan to the MDHR for approval, which the Department received on \_\_\_\_\_ (date). [If the date is the same as the response due date, indicate the time your plan was received: \_\_\_\_\_ (time). **Proceed to BOX C.**
- ☐ We do not have a Certificate of Compliance, nor has the MDHR received an Affirmative Action Plan from our company. **We acknowledge that our response will be rejected. Proceed to BOX C. Contact the Minnesota Department of Human Rights for assistance.** (See below for contact information.)

**Please note:** Certificates of Compliance must be issued by the Minnesota Department of Human Rights. Affirmative Action Plans approved by the Federal government, a county, or a municipality must still be received, reviewed, and approved by the Minnesota Department of Human Rights before a certificate can be issued.

**BOX B – For those companies not described in BOX A**

Check below.

- ☐ We have not employed more than 40 full-time employees on any single working day in Minnesota within the previous 12 months. **Proceed to BOX C.**

**BOX C – For all companies**

By signing this statement, you certify that the information provided is accurate and that you are authorized to sign on behalf of the responder. You also certify that you are in compliance with Federal affirmative action requirements that may apply to your company. (These requirements are generally triggered only by participating as a prime or subcontractor on Federal projects or contracts. Contractors are alerted to these requirements by the Federal government.)

Name of Company: \_\_\_\_\_ Date \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Telephone number: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_



**For assistance with this form, contact:**

Minnesota Department of Human Rights, Compliance Services Section

Mail:	190 East 5 <sup>th</sup> St., Suite 700 St. Paul, MN 55101	TC Metro:	(651) 296-5663	Toll Free:	800-657-3704
Web:	<a href="http://www.humanrights.state.mn.us">www.humanrights.state.mn.us</a>	Fax:	(651) 296-9042	TTY:	(651) 296-1283
Email:	<a href="mailto:employerinfo@therightsplace.net">employerinfo@therightsplace.net</a>				

**STATE OF MINNESOTA  
AFFIDAVIT OF NONCOLLUSION**

I swear (or affirm) under the penalty of perjury:

1. That I am the Responder (if the Responder is an individual), a partner in the company (if the Responder is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the Responder is a corporation);
2. That the attached proposal submitted in response to the \_\_\_\_\_ Request for Proposals has been arrived at by the Responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Responder of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition;
3. That the contents of the proposal have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any such persons prior to the official opening of the proposals; and
4. That I am fully informed regarding the accuracy of the statements made in this affidavit.

Responder's Firm Name: \_\_\_\_\_

Authorized Representative (Please Print) \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public

My commission expires: \_\_\_\_\_

**STATE OF MINNESOTA**  
**VETERAN-OWNED PREFERENCE FORM**

In accordance with Laws of Minnesota, 2010, Chapter 333, Article 2, Sections 3 and 4, veteran-owned businesses with their principal place of business in Minnesota and verified as eligible by the United States Department of Veterans Affairs' Center for Veteran Enterprises (CVE Verified) will receive up to a 6 percent preference in the evaluation of its response.

If responding to a Request for Bid (RFB), the preference is applied only to the first \$500,000 of the response. If responding to a Request for Proposal (RFP), the preference is applied as detailed in the RFP.

Eligible veteran-owned small businesses must be CVE Verified (in accordance with Public Law 109-471 and Code of Federal Regulations, Title 38, Part 74) at the solicitation opening date and time to receive the preference.

Information regarding CVE Verification may be found at <http://www.vetbiz.gov>.

Eligible veteran-owned small businesses should complete and **sign** this form. Only eligible, CVE Verified, veteran-owned small businesses that provide this completed and signed form will be given the preference.

---

**I hereby certify that the company listed below:**

1. Is an eligible veteran-owned small business, as defined by Laws of Minnesota, 2010, Chapter 333, Article 2, Sections 3 and 4; and
2. Has its principal place of business in the State of Minnesota; and
3. Is CVE Verified by the United States Department of Veterans Affairs' Center for Veterans Enterprise.

Name of Company: \_\_\_\_\_ Date: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Telephone: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

---

**IF YOU ARE CLAIMING THE VETERANS PREFERENCE, SIGN AND RETURN THIS FORM WITH YOUR RESPONSE TO THE SOLICITATION.**

*If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP; certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.*

**STATE OF MINNESOTA  
PROFESSIONAL AND TECHNICAL SERVICES CONTRACT**

This contract is between the State of Minnesota, acting through its Commissioner of \_\_\_\_\_ ("State") and \_\_\_\_\_ ("Contractor").

**Recitals**

1. Under Minnesota Statute § 15.061 the State is empowered to engage such assistance as deemed necessary.
2. The State is in need of \_\_\_\_\_.
3. The Contractor represents that it is duly qualified and agrees to perform all services described in this contract to the satisfaction of the State.

**Contract**

**1 Term of Contract**

- 1.1 **Effective date:** \_\_\_\_\_, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.

**The Contractor must not begin work under this contract until this contract is fully executed and the Contractor has been notified by the State’s Authorized Representative to begin the work.**

- 1.2 **Expiration date:** \_\_\_\_\_, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

- 1.3 **Survival of Terms.** The following clauses survive the expiration or cancellation of this contract: 8. Indemnification; 9. State Audits; 10. Government Data Practices and Intellectual Property; 14. Publicity and Endorsement; 15. Governing Law, Jurisdiction, and Venue; and 16. Data Disclosure.

**2 Contractor’s Duties**

The Contractor, who is not a state employee, will:

\_\_\_\_\_  
\_\_\_\_\_

**3 Time**

The Contractor must comply with all the time requirements described in this contract. In the performance of this contract, time is of the essence.

**4 Consideration and Payment**

- 4.1 **Consideration.** The State will pay for all services performed by the Contractor under this contract as follows:

(A) **Compensation.** The Contractor will be paid \_\_\_\_\_.

(B) **Travel Expenses.** Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Contractor as a result of this contract will not exceed \$\_\_\_\_\_; provided that the Contractor will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner’s Plan” promulgated by the commissioner of Employee Relations, which is incorporated in to this contract by reference. The Contractor will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the State’s prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

(C) **Total Obligation.** The total obligation of the State for all compensation and reimbursements to the Contractor under this contract will not exceed \$\_\_\_\_\_.

#### 4.2 **Payment.**

- (A) **Invoices.** The State will promptly pay the Contractor after the Contractor presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted timely and according to the following schedule:
- 
- 

- (B) **Retainage.** Under Minnesota Statutes Section 16C.08, subdivision 5(b), no more than 90% of the amount due under this contract may be paid until the final product of this contract has been reviewed by the State's agency head. The balance due will be paid when the State's agency head determines that the Contractor has satisfactorily fulfilled all the terms of this contract.

- (C) **Federal funds.** (Where applicable, if blank this section does not apply) Payments under this contract will be made from Federal funds obtained by the State through Title \_\_\_\_\_ CFDA number \_\_\_\_\_ of the \_\_\_\_\_ Act of \_\_\_\_\_. The Contractor is responsible for compliance with all Federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Contractor's failure to comply with Federal requirements.

### 5 **Conditions of Payment**

All services provided by the Contractor under this contract must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable Federal, state, and local laws, ordinances, rules, and regulations including business registration requirements of the Office of the Secretary of State. The Contractor will not receive payment for work found by the State to be unsatisfactory or performed in violation of Federal, state, or local law.

### 6 **Authorized Representatives**

The State's Authorized Representative is \_\_\_\_\_, or his/her successor, and has the responsibility to monitor the Contractor's performance and the authority to accept the services provided under this contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Contractor's Authorized Representative is \_\_\_\_\_, or his/her successor. If the Contractor's Authorized Representative changes at any time during this contract, the Contractor must immediately notify the State.

### 7 **Assignment, Amendments, Waiver, and Contract Complete**

7.1 **Assignment.** The Contractor may neither assign nor transfer any rights or obligations under this contract without the prior consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this contract, or their successors in office.

7.2 **Amendments.** Any amendment to this contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.

7.3 **Waiver.** If the State fails to enforce any provision of this contract, that failure does not waive the provision or its right to enforce it.

7.4 **Contract Complete.** This contract contains all negotiations and agreements between the State and the Contractor. No other understanding regarding this contract, whether written or oral, may be used to bind either party.

### 8 **Indemnification**

In the performance of this contract by Contractor, or Contractor's agents or employees, the contractor must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the state, to the extent caused by Contractor's:

1. Intentional, willful, or negligent acts or omissions; or
2. Actions that give rise to strict liability; or

3. Breach of contract or warranty.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the State's failure to fulfill its obligation under this contract.

## 9 State Audits

Under Minnesota Statute § 16C.05, subdivision 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to this contract are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this contract.

## 10 Government Data Practices and Intellectual Property

- 10.1 ***Government Data Practices.*** The Contractor and State must comply with the Minnesota Government Data Practices Act, Minnesota Statute Ch. 13, (or, if the State contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the State under this contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this contract. The civil remedies of Minnesota Statute § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minnesota Statute Ch. 13, by either the Contractor or the State.

If the Contractor receives a request to release the data referred to in this Clause, the Contractor must immediately notify the State, and consult with the agency as to how the Contractor should respond to the request. The Contractor's response to the request shall comply with applicable law.

10.2. ***Intellectual Property Rights.***

- (A) ***Intellectual Property Rights.*** The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents *created and paid for under this contract*. Works means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Contractor, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this contract. Works includes "Documents." Documents are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Contractor, its employees, agents, or subcontractors, in the performance of this contract. The Documents will be the exclusive property of the State and all such Documents must be immediately returned to the State by the Contractor upon completion or cancellation of this contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." The Contractor assigns all right, title, and interest it may have in the Works and the Documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.
- (B) ***Obligations***
- (1) ***Notification.*** Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Contractor, including its employees and subcontractors, in the performance of this contract, the Contractor will immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.
- (2) ***Representation.*** The Contractor must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Contractor nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Contractor represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 8, the Contractor will indemnify; defend, to the extent permitted

by the Attorney General; and hold harmless the State, at the Contractor's expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Contractor's or the State's opinion is likely to arise, the Contractor must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

#### **11 Workers' Compensation and Other Insurance**

Contractor certifies that it is in compliance with all insurance requirements specified in the solicitation document relevant to this Contract. Contractor shall not commence work under the contract until they have obtained all the insurance specified in the solicitation document. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Further, the Contractor certifies that it is in compliance with Minnesota Statute § 176.181, subdivision 2, pertaining to workers' compensation insurance coverage. The Contractor's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way the State's obligation or responsibility.

#### **12 Debarment by State, its Departments, Commissions, Agencies or Political Subdivisions**

Contractor certifies that neither it nor its principles is presently debarred or suspended by the State, or any of its departments, commissions, agencies, or political subdivisions. Contractor's certification is a material representation upon which the contract award was based. Contractor shall provide immediate written notice to the State's authorized representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

#### **13 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion**

Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore Contractor certifies that it is in compliance with Federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549. Contractor's certification is a material representation upon which the contract award was based.

#### **14 Publicity and Endorsement**

14.1 **Publicity.** Any publicity regarding the subject matter of this contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this contract.

14.2 **Endorsement.** The Contractor must not claim that the State endorses its products or services.

#### **15 Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this contract. Venue for all legal proceedings out of this contract, or its breach, must be in the appropriate state or Federal court with competent jurisdiction in Ramsey County, Minnesota.

#### **16 Data Disclosure**

Under Minnesota Statute § 270C.65, Subdivision 3 and other applicable law, the Contractor consents to disclosure of its social security number, Federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to Federal and state agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of Federal and state laws which could

result in action requiring the Contractor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

## **17 Payment to Subcontractors**

(If applicable) As required by Minnesota Statute § 16A.1245, the prime contractor must pay all subcontractors, less any retainage, within 10 calendar days of the prime contractor's receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

## **18 Termination**

- 18.1 ***Termination by the State.*** The State or commissioner of Administration may cancel this contract at any time, with or without cause, upon 30 days' written notice to the Contractor. Upon termination, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.
- 18.2 ***Termination for Insufficient Funding.*** The State may immediately terminate this contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Contractor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding within a reasonable time of the State's receiving that notice.

## **19 Minnesota Statute § 181.59**

The vendor will comply with the provisions of Minnesota Statute § 181.59 which requires:

Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

## **20 Affirmative Action Requirements for Contracts in Excess of \$100,000 and if the Contractor has More than 40 Full-time Employees in Minnesota or its Principal Place of Business**

The State intends to carry out its responsibility for requiring affirmative action by its Contractors.

- 20.1 ***Covered Contracts and Contractors.*** If the Contract exceeds \$100,000 and the contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then the Contractor must comply with the requirements of Minnesota Statute § 363A.36 and Minnesota Rule Parts 5000.3400-5000.3600. A contractor covered by Minnesota Statute § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with Federal affirmative action requirements.
- 20.2 ***Minnesota Statute § 363A.36.*** Minnesota Statute § 363A.36 requires the Contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.



20.3 **Minnesota Rule 5000.3400-5000.3600.**

- (A) *General.* Minnesota Rule 5000.3400-5000.3600 implement Minnesota Statute § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minnesota Rule 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.
- (B) *Disabled Workers.* The Contractor must comply with the following affirmative action requirements for disabled workers.
- (1) The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
  - (2) The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
  - (3) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes Section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
  - (4) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
  - (5) The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Minnesota Statutes Section 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.
- (C) *Consequences.* The consequences for the Contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this contract by the Commissioner or the State.
- (D) *Certification.* The Contractor hereby certifies that it is in compliance with the requirements of Minnesota Statute § 363A.36 and Minnesota Rule 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

**[Signatures as required by the State.]**